

ORIGINAL

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NORTHERN DIST. OF TX
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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UNITED STATES OF AMERICA

§

SUBMITTED UNDER SEAL

vs.

§

CASE NO. 3:09-CR-003-K

§

BRANDON KELLEY (5)

§

§

FACTUAL RESUME

SEALED

Brandon Kelley ("Defendant"), Marlo Cadeddu, Defendant's attorney, and the United States of America ("Government"), represent the following elements and facts to this Honorable Court:

PLEA: Lesser Included Offense of Count One of the Superseding Indictment:

Conspiracy to Manufacture a Controlled Substance (marijuana)
(in violation of 21 U.S.C. §§ 846; 841(a)(1) and (b)(1)(B)(vii))

PENALTIES:

The penalties the Court can impose include:

- a. imprisonment for a period not less than five years and not more than 40 years;
- b. a fine not to exceed \$2,000,000, or twice any pecuniary gain to the defendant;
- c. a mandatory term of supervised release of not less than four years (nor more than five years) which must follow any term of imprisonment. If Defendant violates the conditions of supervised release, he could be imprisoned for the entire term of supervised release;
- d. a mandatory special assessment of \$100;

- e. restitution to victims or to the community, which the Court may order, and which Defendant agrees may include restitution arising from all relevant conduct, not limited to that arising from the offense of conviction alone;
- f. costs of incarceration and supervision;
- g. denial of certain federal benefits (as defined in 21 U.S.C. § 862(d)) for a period of up to five years, at the discretion of the Court;
- h. permanent ineligibility for assistance under any state program funded under part A of Title IV of the Social Security Act; and
- i. permanent ineligibility for benefits under the food stamp program or any state program carried out under the Food Stamp Act of 1977.

ESSENTIAL ELEMENTS OF THE OFFENSE:

- First: That two or more persons, directly or indirectly, reached an agreement to distribute a controlled substance, as charged in the indictment;
- Second: That the defendant knew of the unlawful purpose of the agreement;
- Third: That the defendant joined in the agreement willfully, that is, with the intent to further its unlawful purpose; and
- Fourth: That the overall scope of the conspiracy involved 100 or more marijuana plants, a Schedule I controlled substance.

STIPULATED FACTS

1. BRANDON KELLEY agrees and stipulates that, beginning on or about July 27, 2005 and continuing thereafter until April 22, 2008, in the Dallas Division of the Northern District of Texas and elsewhere, he knowingly and willfully participated in a conspiracy to manufacture and distribute more than 100 marijuana plants, a Schedule I controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1), and (b)(1)(B)(vii), along with Kristofor Kelley, Ronald Kelley, Kevin Heitz, Jessica Moore, and at least four other individuals.
2. During the stated time frame, Kristofor Kelley, Ronald Kelley, BRANDON KELLEY, and others operated clandestine, indoor marijuana growing operations at

numerous houses, including 814 White Dove Drive, Arlington, Texas, 8400 Redheart Street, Arlington, Texas, and 805 White Fields Way, Arlington, Texas. To facilitate these operations, the exteriors of the houses were maintained to give the appearance that they were being lived in. Each house's windows were covered from the inside so that no one could see in, and no light from the marijuana grow lamps would escape. No one lived in or spent the night at any of the houses, trash was never left out for pickup, and the houses were not being remodeled or improved. During surveillance, investigators observed Kristofor, Ronald, and BRANDON KELLEY enter or leave the properties on a regular basis — several times per week for several hours at a time.

3. BRANDON KELLEY actively participated in the manufacture of marijuana by maintaining the marijuana crops, maintaining the exteriors of the houses to make them appear to be lived-in homes, harvesting marijuana, and preparation of marijuana for resale. BRANDON KELLEY also participated in the maintenance of the marijuana growing operations located in the following houses: 814 White Dove Drive, Arlington, Texas; 8400 Redheart Street, Arlington, Texas; and 805 White Fields Way, Arlington, Texas. These indoor grow operations consisted of the cultivation of marijuana plant clones, development of clone root systems on flood-and-drain tables, and at least three Aeroflow 120-type machines, each containing one crop for a harvest of 60 plants at a time. The conspiracy utilized multiple Aeroflow 120-type machines in order to stagger their harvests, thus yielding a consistent supply of marijuana for distribution. Each Aeroflow machine could produce a marijuana harvest every 60 days. Each harvest of the plants on a given Aeroflow 120-type machine consisted of approximately 60 plants and yielded between 4 and 4 ½ pounds of marijuana. Upon harvest, the plants were completely destroyed; thus, requiring the constant cultivation of new marijuana plants in order to develop future harvests.
4. Another part of BRANDON KELLEY's participation in the conspiracy was the distribution of the marijuana for resale. Typically, once marijuana was harvested and prepared for distribution, BRANDON KELLEY would then distribute the marijuana to customers.
5. On April 22, 2008, while BRANDON KELLEY was incarcerated on different charges, law enforcement executed search warrants at the following houses involved in Kristofor Kelley's marijuana production and distribution conspiracy (except for one consent search where noted), and made the following observations and seizures (in part):

<u>House</u>	<u>Observations & Seizures (in part)</u>
8400 Redheart	Extensive marijuana growing operation discovered (436 live marijuana plants in various stages of growth).
814 White Dove	Dismantled extensive marijuana grow operation discovered.
805 White Fields Way	Search pursuant to consent given by Kristofor and Ronald Kelley. Extensive marijuana growing operation discovered (469 live marijuana plants in various stages of growth).

On that day, law enforcement found a total of approximately 1,755 live marijuana plants in the conspiracy's growth operations.

STIPULATED TO AND SIGNED this 31 day of August, 2011.

B. P. Kelley
BRANDON KELLEY
Defendant

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UNITED STATES ATTORNEY

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